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Dec □đ 10, □đđ2014

Submitted electronically to bsharpe@mt.gov

DEQ Permitting & Compliance
Water Protection Division

Re: Comments on Proposed Beaverhead Mine discharge authorization PN MT-14-36

Dear DEQ,

We have reviewed the proposed MPDES permit for the Beaverhead Mine and are concerned that the permit contains inadequate discharge limitations, a lack of movement towards implementing new Best Available Technology to limit pollutant discharges, and reliance on the newly adopted numeric nutrient water quality standards, specifically variances for the industrial sector, which themselves may violate Montanan's right to a clean and healthful environment.

We are particularly concerned that the so-called optimization study for limiting the discharge of nutrients, see permit at pp.5-6, is inadequate to curtail immediate discharges that cause or contribute to violations of water quality standards. Further, we remain dismayed that the Dept. has indeed moved ahead with implementing the variance portion of the new rule package where we have repeatedly called DEQ's attention to the fact that such variance rule is incompatible with the requirements of federal law under the Clean Water Act. Important implementation issues not yet fully explained include why variances can apply for 20 year time spans, why variances can be contemplated for discharges to impaired waterways, and why compliance schedules are not preferable.

We also believe, as a procedural matter, that anytime a variance is contemplated for a discharger of nutrients that such a variance application requires a separate notice and comment opportunity, and that such individual variance coverage may also require EPA approval. As applied, we are similarly concerned that the Beaverhead Mine is not a discharger whom needs a variance; that, if properly applied, the 131.10(g) factors, AKA a use attainability analysis, would show that a closed mine like the Beaverhead Mine, which discharges a relatively simple combination of pollutants, has readily available technology to control discharges, and that DEQ could require implementation of that technology, effective immediately, without proposing a 20-year variance for this industrial discharger.

Last, we are concerned that the use of variances as recently adopted threatens Montanan's right to a clean and healthful environment. The new variance rule allows for 20 year time spans, something that countermands basic timelines for permit discharges under the MWQA which, in turn, is based on federal baseline permit reviews that must happen every five years or sooner. Long compliance timelines that provide scant opportunity for public comment or reasonable assurance that dischargers will in fact reduce pollutant discharges thus threatens receiving waterway health, an action contrary to Montanan's right to a clean and healthful environment.

Sincerely,

0018053

Guy Alsentzer

Executive Director
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